



**MINUTES
CITY COUNCIL REGULAR MEETING
September 28, 2021**

CALL TO ORDER

The meeting was called to order at 6:30 pm.

Present: Mayor: Charlie Miner; Council: Jahn Dyvik, Mike Feldmann, Gina Joyce, and Deirdre Kvale

Staff Present: City Administrator: Scott Weske; City Attorney: John Thames; Planning Consultant: Hannah Rybak; City Engineer: Alex Mollenkamp; Fire Chief: James Van Eyll; and City Clerk: Jeanette Moeller

Absent: None.

PLEDGE OF ALLEGIANCE

MAYOR'S COMMENTS – LONG LAKE NEWS, MEETING REVIEW AND UPDATES

Mayor Miner offered the following comments and updates:

The EDA met prior to the City Council meeting and provided direction to staff to move forward with the sale of a portion of City owned property located behind 2145 and 2165 Daniels Street along the Highway 12 bypass.

Fall curbside leaf pickup dates for Long Lake residents will be Tuesday, October 26 and Tuesday, November 2.

Demolition permits have been issued for the homes on Virginia Avenue that will be removed to make way for development of The Borough project. The Borough project will offer townhouse-style apartments located adjacent to City Hall.

City staff is currently working with an applicant for a potential redevelopment of four lots on Symes Street. The project proposal would be for building 11 townhomes broken up into two buildings.

APPROVE AGENDA

A motion was made by Dyvik, seconded by Feldmann, to approve the agenda as presented. Ayes: all.

CONSENT AGENDA

The Consent Agenda consisted of:

- A. Approve Minutes of September 7, 2021 City Council Work Session
- B. Approve Minutes of September 7, 2021 City Council Meeting
- C. Receive Unofficial Draft Minutes of September 14, 2021 Planning Commission Meeting
- D. Approve Vendor Claims and Payroll
- E. Adopt Resolution No. 2021-41 Accepting the Donation to the Long Lake Fire Department in the Amount of \$200.00 from Minnetonka School District No. 276 for 2021 Tour de Tonka Support

- F. Adopt Resolution No. 2021-41 Approving Issuance of Special Event Permit #S2021-08 for the Gear Western Country Half Marathon and 5K to be Held October 16, 2021; and Approve Issuance of a Noise Variance Permit Authorizing the Use of Sound Amplification Equipment During Event Activities
- G. Adopt Ordinance No. 2021-01 Amending Chapter 8. Buildings and Building Regulations, Article V. Sign Regulations, Division 3. Restrictions, Sec. 8-234, Subdivision (b)(1)(i.) of the City Code of Ordinances to Allow Electronic Changeable Copy Signs as a Permitted Sign Type

A motion was made by Dyvik, seconded by Miner, to approve the Consent Agenda as presented. Ayes: all.

OPEN CORRESPONDENCE

Jennifer Bengtson, 1272 Tealwood Place – City Clerk Moeller read aloud the following comment submitted by Ms. Bengtson for Open Correspondence:

“Hi Jeanette,

I am emailing my comments for open correspondence as I will not be able to attend the meeting this evening.

In regards to Planning Case #2021-03 I am requesting Mayor Miner and the Council members consider the lack of compliance from previous City Engineer requirements on the property and how and when those requirements will be met before moving on to new plans.

As for the updated plans submitted by Birch’s, I would also request a timeline for completion - will the project be one major renovation or will it be performed in phases - and assurance the project will be completed meeting all City Engineer and Watershed requirements.

I am concerned our City does not follow up with compliance after granting permits with specified requirements.

Would you please include this email in tonight’s packet for all on the council and on the panel, I greatly appreciate it. I’m sorry this is last minute.

Jennifer Bengtson”

BUSINESS ITEMS

Planning Case #2021-03 / Request for Approval of a Variance for an Increase in Impervious Surface Coverage and a Conditional Use Permit Amendment to Increase Outdoor Restaurant Seating at Birch’s on the Lake, Located at 1310 Wayzata Boulevard W (Applicant: Brennan Greene / Hunt Greene LLC)

Planning Consultant Rybak gave a presentation describing the updated patio application from Birch’s on the Lake, which was revised with a new patio plan that would meet the required 25-foot setback from the property line on the Tealwood side. The patio would provide seating for no more than 24 individuals, and the applicant has been in communication with the Chief of Police to assure the patio fencing will meet the definition of a “compact and contiguous” area meeting liquor law. She reviewed the applications for a variance to allow an increase in hardcover, and for an amendment to the restaurant’s conditional use permit to allow expansion of the outdoor seating area. Rybak noted that the revised plan for the patio, rain garden, and stairs represented a much better layout than the original proposal as far as meeting setbacks and preventing the walkway from running between the

building and the patio. Rybak displayed the lighting plan for the patio, stating that the plan would be for path lighting and string lights to be used in order for lighting to be subtle and intimate rather than very bright. She also reviewed the landscaping plan and mix of plantings proposed, and highlighted the style of fencing to be used.

Rybak noted that the City has a requirement that the way drainage leaves a site must remain equal or better than what it is currently in relation to improvements proposed. The applicant has made some progress on the engineering comments that were included in the staff report and some items have been addressed in revised plans.

Rybak presented her findings relative to the criteria for issuance of the variance and an amended CUP, and confirmed she finds the criteria for both applications to be met. She noted that the rain garden particularly appears to serve the intent of the ordinance in offsetting impervious surface coverage and capturing runoff; and the new plan for the patio meeting principal structure setbacks, limiting hours of use, and utilizing a type of lighting that would not be visually impactful would reduce the impact of the improvements on the Tealwood neighbors. She added that other than the comment read aloud under Open Correspondence, no further public comment had been received in response to Birch's revised plan.

City Engineer Mollenkamp reviewed the engineer comments as stated in the staff report and provided updates on the applicant's progress on the comment items. She explained that Long Lake's rules for stormwater are written very similar to the Minnehaha Creek Watershed District's rules, and the MCWD will be reviewed the applicant's plan under similar criteria.

Council member Dyvik mentioned that he appreciated the approach of having an allowance for an offset in situations where a request is made for a variance from the 30% hardcover requirement applicable to shoreland properties, and wondered whether City regulations could incorporate such a standard.

City Clerk Moeller indicated she had seen some models of ordinances that addressed hardcover variances with offsetting, and staff could certainly review them in future.

Council member Kvale sought clarification on the finding that the variance requested meets criteria, particularly with regard to unique circumstances to the property.

Rybak clarified that the unique circumstance is the restaurant's proximity to the lake. Not every restaurant is on a lake and non-lakeshore restaurants do not have to contend with the additional impervious requirements that are specific to lakeshore properties. She added that updating ordinances is always a good idea.

City Attorney Thames explained that variance review is a review of an application and not the applicant. He further noted that the City should have code standards that reflect what the City's goals are. As far as the variance currently in front of the Council, there is a compelling argument that can be made for uniqueness related to features of the land that can be used to distinguish it from other properties. Language could be added to the resolution findings in relation to the property's unique circumstances.

Moeller confirmed language could be added to the findings relative to the unique topography of the site and its location within a lakeshore district.

Council member Kvale stated her desire to make such an addition to the language of the resolution.

Council member Dyvik suggested that the finding recognizing there are practical difficulties and unique circumstances to the property be amended to add (topography and proximity to the lake) in the finding.

Council member Joyce questioned when and how the City confirms that engineering comments and approval conditions are satisfied, asking when WSB would be reporting back to the Council.

Mollenkamp replied that there would be inspections of the work as it is taking place, and she has reached out to the MCWD seeking information about their inspection frequency as well. WSB would be out at the site as work is progressing and making determinations on how often that needs to take place. WSB will be inspecting to make sure the project is completed to plan, and the applicant will be required to submit a maintenance agreement to the MCWD. In response to a question by Council member Joyce regarding something that may have been missed in 2015, Mollenkamp explained that the plan and construction in 2015 had been adhered to, but a storm sewer was found to be present that had not been found when the current survey was prepared. The storm sewer was indeed present but had not been fully maintained, leading to erosion issues that were being experienced at the site. She confirmed that staff could provide a follow up report to Council to confirm all proposed improvements are constructed to plan.

Council and staff continued to discuss recourse available to the City to confirm the project would be constructed to plan and maintained. It was noted that the outdoor seating area would be subject to the annual conditional use permit review process. The MCWD may also require a bond to be deposited for work to be completed, as they have done so in past projects.

Council and staff also discussed maintaining lighting as approved to plan; as well as the use of live music on the patio, and giving consideration to prohibiting music broadcast by DJ.

Applicant Brennan Greene, Birch's on the Lake, spoke to confirm their intent would be to construct the project as soon as they're allowed to do so. They hope to construct the project before the ground freezes, otherwise it may be in the spring. As part of their permitting process, the MCWD also requires a maintenance agreement to be executed and notarized.

Mollenkamp mentioned that the City could annually check in with the MCWD and ask them to review the maintenance agreement properties they have in town.

A motion was made by Kvale, seconded by Miner, to adopt Resolution No. 2021-42 approving the requests for a variance to increase impervious surface coverage and a conditional use permit for expanded outdoor seating, at the property located at 1310 Wayzata Boulevard W., subject to the conditions as stated in the Resolution, and with the following amendments:

Regarding the conditions of approval for the conditional use permit amendment, amending No. 1 to read:

- 1. Patio shall not exceed twenty-four (24) seats; these twenty-four (24) seats will replace the twenty-four (24) seats that were removed from inside the restaurant in the private dining room. The added patio seating shall not increase the total seating of the restaurant over 300 seats, which is what is allowed under the previously approved parking variance.*

Amending No. 3 to read:

- 3. No live music or DJ shall be allowed on the patio at any time.*

Amending No. 5 to read:

5. *Lighting shall be installed and maintained as shown on the plan, and must be inspected by City staff prior to use of the patio commencing.*

And under the findings on page 1, amending finding No. 2 to read as follows:

2. *There are practical difficulties and unique circumstances (topography and proximity to the lake) associated with the request for additional impervious surface coverage;*

Ayes: all.

Staff Presentation: Discussion Regarding I-1 and I-2 Industrial District Standards Relating to Outdoor Storage Limits/Conditions and Paving Requirements

Rybak indicated that staff quite frequently deals with issues related to outdoor storage and vehicle parking in the City's industrial zoning districts. The standards for outdoor storage and paving are the same for both the I-1 and I-2 Industrial districts. She displayed an image of the area referenced on the overhead and explained that outdoor storage is currently limited to 25% of the total lot area, any part of the lot used for outdoor storage must be enclosed by a screening fence, and storage must be located to the rear of the principal building on the site or in the rear one half of the site if no building is present. Parking of commercial vehicles cannot exceed 25% of the area of the lot. Zoning code should specify whether outdoor storage and commercial vehicles are each 25% or together 25%, as the ordinance is unclear on this. Parking must be located to the rear of the principal building on the side or rear one half of the site if no building is present. Code currently states that any area of the lot not occupied by a building shall be paved if used for parking or outdoor storage. There are a significant number of properties out of compliance with this that have gravel lots.

Rybak reviewed an aerial image of the industrial districts, highlighting instances where parcels are out of conformance with code, and pointing out examples of properties that would be unable to comply with code because their buildings are set back close to the rear lot line. Many properties don't have an adequate area to accommodate an outdoor storage area that would comply with zoning district standards. Staff could look at a proactive code enforcement sweep and review properties out of conformance as an option. Currently, when staff is communicating with new owners, staff attempts to pursue voluntarily compliance with zoning code, but those new tenants frequently point out other businesses in their area that are not compliant and convey frustration that they feel like they are being picked on.

Rybak noted that staff would recommend any parking areas be paved, but maybe gravel lots are acceptable for outdoor storage areas. Consideration could also be given to allowing screened outdoor storage in the rear one half of lots, and/or for storage to be behind the front of the buildings. Because the code currently establishes that outdoor storage may only be behind a principal building, properties are unable to comply with code. Employing the rear one half of the lot as a standard sounds reasonable to staff for all properties, not just where there is no building present.

She further touched on legal non-conforming uses, legal non-conforming uses versus properties that are not in conformance, and the impact of changes in types of uses.

Council and staff discussed the potential to achieve conformance with zoning requirements through amending text in these districts to be less restrictive. Feedback from Council expressed a willingness to give consideration to amendments, particularly with regard to addressing outdoor storage.

Rybak confirmed she could prepare a proposal to submit for completing a comparison of local cities' outdoor storage and paving requirements, and preparing possible text amendment scenarios for review.

Adoption of Preliminary 2022 Payable Levy; Establish Truth in Taxation Public Meeting Date to Discuss Levy and Proposed Budget

Weske reported that the current proposed 2022 levy of \$1,297,809 represents an increase of \$74,525 or 6.09%, with no increase in the City's tax rate which would remain flat at 36.58%. The current proposed budget and levy as of this time would result in an estimated \$9,213.00 surplus, but that may change since the City hasn't received all of the numbers needed which will continue to be received and updated up to December.

Weske reviewed preliminary 2022 budget considerations that have been discussed with Council previously, including budgeting \$50,000 for allocation to the Pavement Management Fund, budgeting \$10,000 for the Carp Management Fund, allocating \$20,000 for pedestrian safety improvements, and budgeting \$15,000 for replacement of furnaces at the Public Works building.

He mentioned that his report also highlighted that the City is anticipated to receive \$61 in Local Government Aid (LGA) instead of the usual \$0.

Council and staff discussed LGA amounts being received by other communities, questioning the factors used to calculate LGA amounts, and whether the City has any ability to challenge its LGA determination.

Council member Dyvik also raised the point that perhaps pedestrian safety improvements in the downtown area could be financed via EDA funding.

Mayor Miner noted that staff would need to confirm doing so would be an allowable use of EDA funds.

Mayor Miner made reference to a comment in Weske's report indicating that staff may need to cash in CD's for daily City operations.

Weske responded that in general all the City's revenue is deposited into one checking account. Under the current budget, there may not be enough revenue for expenses. Though the budget shows a surplus for the general fund, the City's overall budget is forecast to show a \$220,000 loss for utilities. He confirmed that there will be an automatic inflator for water and sewer rates that will go into effect for 2022, but Council may want to give consideration to water and sewer rate adjustments in the coming months.

Council member Dyvik asked whether revenue from development project permits could be used towards making the City's utility funds whole.

Weske confirmed that while Metropolitan Council's SAC funds will be passed through to their office, the City will also be receiving SAC and WAC funds that can be allocated to utility funds.

A motion was made by Feldmann, seconded by Miner, to adopt Resolution No. 2021-38 establishing the preliminary property tax levy payable in 2022 for the City of Long Lake. Ayes: all.

A motion was made by Feldmann, seconded by Dyvik, to adopt Resolution No. 2021-39 establishing the Truth in Taxation public meeting date as December 7, 2021 to discuss the proposed levy and budget for taxes payable 2022 for the City of Long Lake. Ayes: all.

Reschedule November 2, 2021 City Council Meeting

City Clerk Moeller explained that November 2 is a General Election Day in Minnesota, and although there are no elections for City of Long Lake voters in 2021, other nearby Hennepin County cities do have elections. Staff recommends rescheduling the November 2 City Council meeting to an alternate date.

A motion was made by Feldmann, seconded by Miner, to reschedule the November 2 City Council work session and regular meetings to Monday, November 1. Ayes: all.

OTHER BUSINESS

Flashing Pedestrian Safety Signal – Council member Kvale voiced her support for installation of a push button and flashing light pedestrian safety signal at the Wurzer Trail crossing. Council member Dyvik confirmed that is what he has been suggesting, which would be a similar signal to what is currently installed at the Mill Street crossing. Council and staff discussed the potential for the City to install a signal versus the County. Fire Chief Van Eyll confirmed the County would likely be looking for the City to fund the signal. Council and staff agreed that following up with the County was warranted, and cost estimates for the signal should be reviewed or obtained.

LGA Formula – Council member Dyvik asked whether Council could receive a copy of the LGA calculation formula. Mayor Miner mentioned that an email with the formula information had been sent.

Flashing Stop Sign at Watertown Road Intersection – Mayor Miner had put in a request to Hennepin County to install an LED flashing stop sign at the intersection of County Road 146 and Watertown Road, as that is one of the City's busiest four-way stops. He indicated there is a committee reviewing the request and the response may take awhile.

Glenmoor Lane Parking Issue – Moeller confirmed that staff had received a petition from residents of Glenmoor Lane requesting the City establish a portion of the street as a Residential Permit Parking Only Zone. Staff published a public hearing notice for Council to consider adoption of an Ordinance to do so at their October 19 meeting.

Stop Sign at Glenmoor Lane/Greenhill Lake Intersection – Council member Joyce noted that at their last meeting, the Park Board pointed out that there are not any stop signs at the three-way stop intersection of Glenmoor Lane and Greenhill Lane, in the area of Hardin Park. Council and staff discussed whether there should be a traffic control measure at that intersection.

ADJOURN

Hearing no objection, Mayor Miner adjourned the meeting by general consent at 8:41 pm.

Respectfully submitted,

Scott Weske
City Administrator